United Nations A/64/491 S/2009/533

General Assembly
Security Council

Distr.: General
14 October 2009

Original: English

General Assembly
Sixty-fourth session
Agenda items 14 and 18

Security Council
Sixty-fourth year

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Letter dated 12 October 2009 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to draw your attention to the statement made on 28 September 2009 by Mr. Edward Nalbandian, Minister of Foreign Affairs of the Republic of Armenia, at the general debate of the sixty-fourth session of the United Nations General Assembly. This statement is illustrative as to the blatant distortion of facts and consistent disrespect by Armenia, which bears primary responsibility for unleashing the war of aggression against Azerbaijan, of the Charter of the United Nations and fundamental principles of international law.

Whereas it has been internationally recognized that the occupation by force of the Nagorny Karabakh region and adjacent areas of Azerbaijan and ethnic cleansing of the captured territories constitute a flagrant breach by the Republic of Armenia of its obligations under international law, the Minister of Foreign Affairs of Armenia expresses concern as to the "militaristic aspirations of some States", blames Azerbaijan for misinterpretation of the essence of "the Nagorno Karabakh problem" and other invented wrongdoings.

Thus, the Minister of Foreign Affairs of Armenia accuses Azerbaijan of the alleged use of mercenaries who were closely linked to terrorist organizations, while it is a matter of fact that as a result of terrorist acts against Azerbaijan carried out since the late 1980s by the Armenian side, over 2,000 citizens of Azerbaijan have been killed, the majority of them women, the elderly and children (for more information, see United Nations documents A/C.6/50/4 and A/C.6/51/5). Furthermore, there are unquestionable facts testifying about the active use by Armenia of mercenaries to attack Azerbaijan (for more information, see the note by the Secretary-General entitled "Use of mercenaries as a means of violating human

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rights and impeding the exercise of the right of peoples to self-determination", document A/49/362, paras. 69-72).

The Minister of Foreign Affairs of Armenia refers to the commitment of the parties to the peaceful settlement of the conflict through negotiations and considers "totally unacceptable when the threats to resolve the conflicts through military means are made at the highest level". However, he omits recalling that Armenia neglected without any hesitation one of its basic obligations under the Charter of the United Nations — to settle international disputes by peaceful means.

It is curious that while listing in his statement a number of documents as allegedly reflecting "a serious basis" for the settlement of the conflict, the Minister of Foreign Affairs of Armenia passes over in silence the relevant resolutions of the United Nations Security Council and General Assembly, which are the most authoritative rulings on the problem, as well as other important documents adopted by international organizations, such as a statement by the Chairman-in-Office of the Organization for Security and Cooperation in Europe at the OSCE Lisbon Summit of 1996, supported by all OSCE participating States except Armenia, and resolution 1416 (2005) adopted on 25 January 2005 by the Parliamentary Assembly of the Council of Europe.

By disregarding the resolutions adopted by the principal organs of the United Nations, with which the primary responsibility for maintenance of international peace and security lies, and by misinterpreting the essence of other relevant documents on the conflict, Armenia clearly demonstrates who is actually pursuing militaristic aspirations.

The statement by the Minister of Foreign Affairs of Armenia has not become an exception from usual speculations and misinterpretations by Armenian officials as to the interrelationship between the legal norm of the territorial integrity of States and the principle of self-determination in international law and alleged application of the latter in the context of ongoing efforts towards the resolution of the conflict between Armenia and Azerbaijan.

It must be clarified in this regard that, contrary to the approach of the Armenian side based on attempts to legalize the results of the use of force and ethnic cleansing, the principle of self-determination represents a legitimate process carried out in accordance with international and domestic law within precisely identified limits. This principle exists in reality as a rule of international law and as such provides for the independence of colonial territories and for the participation of peoples in the governance of their States within the territorial framework of such States. Besides, this principle also has an application in the case of foreign occupations and acts to sustain the integrity of existing States. It is generally accepted that the principle of self-determination cannot be interpreted to include a right in international law of non-consensual secession (outside of the colonial context).

The critical factor in addressing the issue of self-determination with regard to the conflict between Armenia and Azerbaijan is that all actions aimed at tearing away a part of the territory of Azerbaijan were unlawful and constituted a violation of fundamental norm of respect for the territorial integrity of States, as well as a violation of other relevant international legal principles, such as a rule prohibiting the use of force and the acquisition of territory. In other words, Armenia's claims as

to the application of the principle of self-determination are contrary to and unsustainable in international law.

In an attempt to support his government's unconvincing arguments, the Minister of Foreign Affairs of Armenia asserts that "if self-determination was inferior to territorial integrity there would have been only 52 Member States in the United Nations, instead of 192 present". These words sound as a gross insult to all Member States that achieved their independence through legitimate means. The Armenian side must be aware that since 1945 no State which has been created by the unlawful use of force and ethnic cleansing has been admitted to the United Nations. In contrast to this undisputed reality, Armenia used the military force to occupy the territory of Azerbaijan and to establish on it the ethnically constructed subordinate separatist entity, which survives by virtue of Armenia's military and other support and which the world refused to recognize.

The Minister of Foreign Affairs of Armenia believes that "the parties should commit to refrain from steps that could hamper dialogue and the peace process". The only misconception in these words is that their author should address them to his own government, so that the right thoughts could have been supported by deeds.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 14 and 18, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative